IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 17TH JULY 2007 / 26TH ASHADHA 1929

WP(C).No. 20774 of 2007(W)

PETITIONERS:

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1. K.MALARVIZHI, W/O.KALUVA THEVAR,
   7/874/1, THENI MAIN ROAD, MADURAI, TAMILNADU.

2. K.KARTHIK, S/O.KALUVA THEVAR,
   7/874/1, THENI MAIN ROAD, MADURAI, TAMILNADU.

BY ADV. SRI.V.K.SUNIL

RESPONDENTS:

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1. STATE OF KERALA, REPPRESENTED BY ITS
   SECRETARY, DEPARTMENT OF REVENUE, GOVERNMENT
   SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DISTRICT COLLECTOR, IDUKKI.

3. THE DISTRICT SUPERINTENDENT OF POLICE,
   IDUKKI.

4. THE TAHSILDAR, PEERMEDU, IDUKKI.

5. THE VILLAGE OFFICER, PERIYAR VILLAGE,
   IDUKKI.

6. THE VILLAGE OFFICER, KUMALI VILLAGE,
   IDUKKI.

7. THE S.I. OF POLICE, KUMALI POLICE
   STATION, IDUKKI.

8. SAJESH JOSEPH, KONNACKAL HOUSE,
   KUMALI, IDUKKI DISTRICT.

R1 TO R7 BY GOVT. PLEADER SRI.I.V.PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

WP(C) NO. 20774 OF 2007 - W

Dated this the 17th day of July, 2007

J U D G M E N T

The petitioner's earth escavating machine was seized by the fourth respondent on allegation of violation of provisions of the Kerala Land Utilisation Order. The petitioner seeks the following reliefs:-

> "I. To issue a writ of mandamus or any other appropriate writ, direction or order of this Honourable Court directing the respondents 1 to 4 to release the Hitachi make Ex 120 excavator with Engine and Chasis No.44620 seized by the 4th respondent vide proceedings No. E9/23954/2007 now pending on the file of the 2nd respondent;
> II. To call for the records of File No. E9/23954/2007 pending before the 2nd respondent and declare that seizure of the Hitachi make Ex 120 excavator with Engine and Chassis No.44620 belonged to the petitioners by the 4th respondent was illegal and unlawful;
> III. To pass such other orders as this Honourable Court may deem fit in the interest of justice."

The petitioner's contention is that the Kerala Land Utilisation Order does not provide for seizure or confiscation of any vehicles and therefore, the seizure of

the petitioner's escavating machine by the fourth respondent is without jurisdiction.

2. I have heard the learned Government Pleader also.

3. In the facts and circumstances of the case, I direct respondents 1 to 4 to release the petitioner's escavating machine seized by the fourth respondent on the petitioner executing a simple bond without sureties undertaking to produce the machine if and when required as directed by the respondents. The machine shall be released immediately on furnishing the bond. The appropriate authority among the respondents shall thereafter pass final orders in the matter.

The writ petition is disposed of as above.

Sd/-

S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:01-06-2007